

REMARKS

Favorable reconsideration and allowance of the present application is respectfully requested.

Currently, claims 39-56, including independent claims 39 and 51, remain pending in the present application. Independent claim 39, for example, is directed to a composite fabric comprising a nonwoven web. The nonwoven web is formed from continuous splittable multicomponent thermoplastic fibers having individual segments exposed on an outer perimeter thereof. Various segments of these fibers may thus separate from the web during entanglement, thereby improving the bulk, softness, and capillary tension of the resulting fabric. (Appl. p. 9). The nonwoven web is creped and then hydraulically entangled with a fibrous material that constitutes greater than about 50% by weight of the fabric, and in some embodiments, from about 60% to about 90% by weight of the fabric. The fibrous material contains cellulosic fibers (e.g., pulp fibers), which as a result of hydraulic entanglement, are driven into the nonwoven web. (See e.g., Appl. pg. 22).

As an initial matter, claims 39, 44-45, 49-51, and 55-56 were provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/328,846. Claims 39-40, 44, 49-51, and 55-56 were also provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/328,751. Further, claims 39, 44, 49-50, and 55-56 were provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/328,450 in view of U.S. Patent No. 6,103,061 to Anderson, et al. Finally, claims 39, 40-42, and 51 were

provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/744,606. Without commenting on the propriety of these rejections, Applicants agree to submit terminal disclaimers for the referenced applications at such time that the present application is otherwise found to be allowable.

In the Office Action, independent claims 39 and 51 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 4,808,467 to Suskind, et al. in view of U.S. Patent No. 6,797,226 to Annable and U.S. Patent No. 6,103,061 to Anderson, et al. Suskind, et al. is directed to a high strength nonwoven absorbent fabric formed from a web of continuous filament fibers. The continuous filament fibers are intimately entangled with wood pulp fibers mixed with staple length fibers. (Col. 1, ll. 48-53). However, as correctly noted by the Examiner, Suskind, et al. fails to disclose various limitations of the present claims, including the use of a nonwoven web that is "creped" and also formed from "continuous splittable multicomponent thermoplastic fibers having individual segments exposed on an outer perimeter thereof."

Nevertheless, Annable and Anderson, et al. were both cited in conjunction with Suskind, et al. in an attempt to render obvious independent claims 39 and 51. For example, Annable was cited as teaching a microcreped, nonwoven web that may be formed from conjugate fibers. However, Annable is not available as prior art to the present application under 35 U.S.C. §103(a). Under the provisions of 35 U.S.C. §103(c), a patent that qualifies as prior art only under §102(e), (f), or (g) is not available as prior art if the patent and the claimed invention were, at the time the invention was

made, subject to an obligation of assignment to the same person.¹ In the instant case, Annable and the present application were both subject to assignment to Kimberly-Clark Worldwide, Inc. Specifically, the files of the present application refer to an assignment recorded in the PTO at Reel and Frame Nos. 012727/0740 to Kimberly-Clark Worldwide, Inc. Likewise, Annable was also formally assigned to Kimberly-Clark Worldwide, Inc. Accordingly, Applicants respectfully submit that Annable is no longer available as prior art to the present application.

Regardless, Suskind, et al. provides no motivation whatsoever for one of ordinary skill in the art to crepe the nonwoven web prior to entanglement. In fact, Suskind, et al. completely fails to recognize the benefits achieved by using a creped nonwoven web in accordance with the present claims. For instance, creping the nonwoven web may, among other things, open the pore structure to increase permeability, enhance stretchability in the machine and/or cross-machine directions, and increase softness and bulk. (See e.g., Appl. p. 12).

As noted above, Anderson, et al. was also cited in the Office Action in combination with the above references. Specifically, it was stated that Anderson, et al. teaches the use of splittable fibers, and that it would have been obvious to incorporate such fibers into the fabric of Suskind, et al. However, notwithstanding any teaching relating to the use of splittable fibers, Anderson, et al. fails to cure any of the defects discussed above with respect to Suskind, et al. and Annable. Thus, for at least the

¹ Annable is not available as prior art under §102(a) as it published on September 26, 2002, while the present application was filed on December 20, 2001. Thus, it is presumed that the Office Action attempts to use Annable as a §102(e) reference in the §103 rejection.

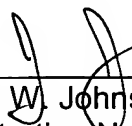
reasons set forth above, Applicants respectfully submit that independent claims 39 and 51 patentably define over the cited references.

In addition, Applicants also submit that dependent claims 40-50 and 52-56 patentably define over the references cited for at least the reasons set forth above relating to corresponding independent claims 39 and 51. Applicants note, however, that the patentability of such dependent claims does not necessarily hinge on the patentability of independent claims 39 and 51. In particular, some or all of these claims may possess features that are independently patentable, regardless of the patentability of claims 39 and 51.

It is believed that the present application is in complete condition for allowance and favorable action is respectfully requested. Examiner Torres-Velazquez is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Response. Please charge any fees required by this Response to Deposit Account No. 04-1403.

Respectfully submitted,

DORITY & MANNING, P.A.



Jason W. Johnston
Registration No. 45,675

DORITY & MANNING, P.A.
P. O. Box 1449
Greenville, SC 29602-1449
Phone: (864) 271-1592
Facsimile: (864) 233-7342

Date: 3/10/05